

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

WILLIAM SHARP,

Plaintiff,

v.

ORDER
08-CV-599A

RICHARD J. McKEON, JR. and
THE CITY OF BUFFALO,

Defendants.

The above-referenced case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1)(B). On August 11, 2009, Magistrate Judge Scott filed a Report and Recommendation, recommending that plaintiff's motion to remand the case back to state court be granted and that plaintiff's request for attorneys fees, costs and expenses be denied.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, plaintiff's motion to remand is granted and plaintiff's request for attorneys fees, costs and expenses is denied inasmuch as an objectively reasonable basis for jurisdiction under § 1331 and § 1441 existed at the time of removal.

The Clerk of Court shall take all steps necessary to close the case.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: September 2, 2009